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|--|-------------|----------------------|-------------------------------|------------------|
| APPLICATION NO.  | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO.           | CONFIRMATION NO. |
| 10/657,677   | 09/08/2003  | John P. Foster       |                               | 1244             |
| 7590   | 12/27/2004  |                      |                               |                  |
| John P. Foster<br>395 Dusty Rd.<br>St. Augustine, FL 32095 |             |                      | EXAMINER<br>SWIATEK, ROBERT P |                  |
|  |             | ART UNIT<br>3643     | PAPER NUMBER                  |                  |

DATE MAILED: 12/27/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

|                              |                                      |                         |  |
|------------------------------|--------------------------------------|-------------------------|--|
| <b>Office Action Summary</b> | <b>Application No.</b>               | <b>Applicant(s)</b>     |  |
|                              | 10/657,677                           | FOSTER, JOHN P.         |  |
|                              | <b>Examiner</b><br>Robert P. Swiatek | <b>Art Unit</b><br>3643 |  |

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) Responsive to communication(s) filed on 02 October 2004.  
 2a) This action is FINAL.      2b) This action is non-final.  
 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) Claim(s) 1 and 2 is/are pending in the application.  
 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.  
 5) Claim(s) \_\_\_\_\_ is/are allowed.  
 6) Claim(s) 1 and 2 is/are rejected.  
 7) Claim(s) \_\_\_\_\_ is/are objected to.  
 8) Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) The specification is objected to by the Examiner.  
 10) The drawing(s) filed on 02 October 2004 is/are: a) accepted or b) objected to by the Examiner.  
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).  
 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
 a) All    b) Some \* c) None of:  
 1. Certified copies of the priority documents have been received.  
 2. Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.  
 3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1) Notice of References Cited (PTO-892)  
 2) Notice of Draftsperson's Patent Drawing Review (PTO-948)  
 3) Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
 Paper No(s)/Mail Date \_\_\_\_\_
- 4) Interview Summary (PTO-413)  
 Paper No(s)/Mail Date, \_\_\_\_\_.  
 5) Notice of Informal Patent Application (PTO-152)  
 6) Other: \_\_\_\_\_

### DETAILED ACTION

The substitute specification filed 2 October 2004 has been entered; the originally-filed specification has been deleted.

The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

Claims 1, 2 are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the enablement requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to enable one skilled in the art to which it pertains, or with which it is most nearly connected, to make and/or use the invention. The claims are drawn to a "method and mechanism" of propulsion, yet—despite small changes—the new specification remains unclear as to the exact structure of this mechanism or the precise method steps that are believed novel. The sole structure described in the specification and shown in the drawings is a pair of particle accelerator rings, which presumably is applicant's invention; how these rings are arranged, modified, or employed to produce a space engine is not understood. Are these rings simply conventional particle accelerators spinning relative to one another? Is the flow of particles within the rings sufficient to generate a force along the axes of the rings? If so, how the particles "sidestep gravity" or travel "perpendicular" to it to exceed escape velocity would seem to be a matter outside conventionally accepted physics. In this situation, much more information, such as test data, engineering schematics, and the compositions of materials used

for the various parts comprising the invention would be required to establish applicant's thesis that a novel space engine has been constructed or is theoretically feasible. If additional structure is associated with the rings of Figure 1 to complete the space engine, it is not illustrated or described. Moreover, the specification as written is extremely confusing and does not clearly describe the nature of the invention; to the extent it is understood, it seems to expound mainly upon the engine's capabilities rather than its components. Applicant's specification does not contain sufficient information to permit one skilled in the art "to make and use the same," i.e., build the invention, as required by 35 USC 112, paragraph one. As noted in the first Office action, the specification should employ reference numerals referring to the various parts of the invention shown in the drawings.

Claims 1, 2 are rejected as failing to define the invention in the manner required by 35 U.S.C. 112, second paragraph.

The claim(s) are narrative in form and replete with indefinite and functional or operational language. The structure which goes to make up the device must be clearly and positively specified. The structure must be organized and correlated in such a manner as to present a complete operative device. The claim(s) must be in one sentence form only. Note the format of the claims in the patent(s) cited. Applicant's informal claims are mere recitations of what the invention does and are not drawn to the particular *structure* that produces the novel method of vertical propulsion. The preamble of each claim indicates the claim is drawn to both a method *and* a mechanism, which is improper—a claim must be drawn consistently to either an apparatus or a method. If a claim is set forth in method format, it must recite the precise series of steps comprising the method. Applicant's claims currently include neither method steps nor

structure. In claim 1, line 2, it is unclear what is meant by "vertical propulsion" in the context of a device that ostensibly operates in space, in line 3, "the planet" lacks a prior antecedent basis; in claim 2, line 3, the phrase "to alternate the acceleration and deceleration of circulatory matter" is not understood, in line 4, "the ship" lacks a prior antecedent basis.

Applicant is reminded of the proper language and format for an abstract of the disclosure.

The abstract should be in narrative form and generally limited to a single paragraph on a separate sheet within the range of 50 to 150 words. It is important that the abstract not exceed 150 words in length since the space provided for the abstract on the computer tape used by the printer is limited. The form and legal phraseology often used in patent claims, such as "means" and "said," should be avoided. The abstract should describe the disclosure sufficiently to assist readers in deciding whether there is a need for consulting the full patent text for details.

The language should be clear and concise and should not repeat information given in the title. It should avoid using phrases which can be implied, such as, "The disclosure concerns," "The disclosure defined by this invention," "The disclosure describes," etc.

The abstract of the disclosure is objected to because it is unclear and does not concisely set forth the nature of the invention; it exceeds the maximum permitted length of 150 words. Correction is required. See MPEP § 608.01(b).

The drawings are objected to because they should employ reference numerals to refer to the various parts of the invention described in the specification; the equations and textual material that constitute Figures 7-9 should appear as tables or sections in the specification rather than as drawing figures. Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The figure or figure number of an amended drawing should not be labeled as "amended." If a drawing figure is to be canceled, the appropriate figure must be removed from the replacement sheet, and where necessary, the

remaining figures must be renumbered and appropriate changes made to the brief description of the several views of the drawings for consistency. Additional replacement sheets may be necessary to show the renumbering of the remaining figures. The replacement sheet(s) should be labeled "Replacement Sheet" in the page header (as per 37 CFR 1.84(c)) so as not to obstruct any portion of the drawing figures. If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

**THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

In any response to this action, applicant should submit an argument under the heading "Remarks" pointing out disagreements with the examiner's contentions.

Summary: Claims 1, 2 have been rejected.

RPS: 0703/308-2700  
23 December 2004

*Robert P. Swiatek*  
ROBERT P. SWIATEK  
PRIMARY EXAMINER  
ART UNIT 333 3643